

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <https://www.ca9.uscourts.gov/forms/form7instructions.pdf>

9th Cir. Case Number(s)	22-56199
Case Name	Yuga Labs, Inc. v. Ryder Ripps, et al.
Counsel submitting this form	Eric Ball
Represented party/parties	Plaintiff-Appellee Yuga Labs, Inc.

Briefly describe the dispute that gave rise to this lawsuit.

Plaintiff-Appellee Yuga Labs, Inc. ("Yuga Labs") is the creator of the world-famous Bored Ape Yacht Club ("BAYC") non-fungible tokens ("NFTs"). In May 2022, Defendants-Appellants Ryder Ripps and Jeremy Cahen ("Defendants") launched a business venture to scam consumers into purchasing their "RR/BAYC" NFTs by appropriating the very same trademarks that Yuga Labs uses to promote and sell its authentic BAYC NFTs and selling the "RR/BAYC" NFTs in various marketplaces where the authentic BAYC NFTs were also sold. Further, Defendants went on to use Yuga Labs' marks to promote their in-progress "Ape Market" NFT marketplace, which would require ownership of an "RR/BAYC" NFT for access.

Yuga Labs filed a Complaint against Defendants for trademark infringement, false designation of origin, false advertising, cybersquatting, unfair competition, unjust enrichment, conversion, and tortious interference.

Defendants do not deny the use of Yuga Labs marks nor their sales of their infringing NFTs in the same marketplaces where Yuga Labs sells its NFTs.

Briefly describe the result below and the main issues on appeal.

On October 3, 2022, Defendants filed an Anti-SLAPP Motion to Strike and Motion to Dismiss Yuga Labs' Complaint. On December 16, 2022, Judge Walter of the Central District of California denied Defendants' Motions. On the Motion to Dismiss, the Court dismissed without prejudice only the unjust enrichment claim, which Yuga Labs agreed to drop during briefing, and held that Yuga Labs stated a claim on all remaining claims.

Judge Walter denied the Anti-SLAPP Motion after observing the nature of "Defendants' heavily commercial use of the BAYC marks to sell the same product – NFTs – with the same image ... to the same customers in the same markets." The Court concluded that "Defendants have failed to make a prima facie showing that Plaintiff's claims 'arise from' an 'act in furtherance of [their] right of petition or free speech.'"

On December 21, 2022, Defendants noticed their appeal of Judge Walter's denial of the Anti-SLAPP Motion to Strike to the Ninth Circuit. On appeal, Defendants challenge the District Court's denial of their Anti-SLAPP Motion.

Describe any proceedings remaining below or any related proceedings in other tribunals.

On October 21, 2022, the District Court entered a Scheduling and Case Management Order setting the case for the closure of discovery on April 3, 2023 and a three-day trial on June 27, 2023. On December 27, 2022, Defendants filed an answer and counterclaims.

Signature

s/Eric Ball

Date

12/30/2022

(use "s/[typed name]" to sign electronically-filed documents)